

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NWL HOLDINGS, INC.,

Plaintiff(s),

-against-

DISCOVER PROPERTY & CASUALTY
INSURANCE CO.,

Defendant(s).

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WALL, Magistrate Judge:

ORDER

CV 05-3499 (DRH) (WDW)

Before the court is plaintiff's letter application seeking an order compelling responses to outstanding discovery demands, extending plaintiff's time to move for summary judgment, and for sanctions. Docket Entry # 12. No opposition has been received. Plaintiff's motion to compel is granted, both on the merits and as unopposed.

Plaintiff served a Request for Production of Documents on December 27, 2005. Plaintiff's counsel details his good faith efforts to secure defendant's compliance before making this motion. Despite those efforts, defendant has failed to respond to the discovery demand, and has further failed to respond to this motion.

Defendant shall comply with the Request for Production of Documents by **March 24, 2006**. Furthermore, defendant has waived any objections to the outstanding discovery demand. Federal Rule 33(b)(4) provides that any ground for objection "not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown." The defendant has shown no cause at all for its failure to respond to the demands in a timely fashion. "It is well settled that a failure to assert objections to a discovery request in a timely manner operates as a waiver." *Eldaghar v. City of New York Dep't of Citywide Admin. Svces*, 2003

LEXIS 19247 *2 (S.D.N.Y. Oct. 20, 2003). In cases where, as here, no good cause has been shown for the late responses, a finding of waiver is appropriate. “Any other result would ignore the time limits set forth in the Federal rules of Civil Procedure, contribute further to the delay in resolving cases, and transform Article V of the Federal Rules of Civil Procedure from a structure of well-defined rights and obligations to a system of suggested, but non-binding, guidelines.” *Id.* at * 3-4. Thus, any objections defendant may have had to the demands have been waived.

The deadline regarding summary judgment motions, contained in Paragraph 3 of the Stipulated Rule 16 Initial Scheduling Order signed by the parties November 28, 2005 and So Ordered by the court on December 2, 2005, is extended to **April 7, 2006**. Finally, plaintiff is awarded \$200 as reasonable costs, including attorneys’ fees, pursuant to Federal Rule 37(a)(4)(A), the defendant having made no showing of substantial justification for its failure to timely respond to the discovery demands.

Dated: Central Islip, New York
March 9, 2006

SO ORDERED:

/s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge